

How to Cite:

Ghouini, S., Zitout, A., & Abderrazzak, B. (2024). Theoretical foundation of the regulations for investing zakat funds. *International Journal of Economic Perspectives*, 18(12), 2929–2938. Retrieved from <https://ijeponline.org/index.php/journal/article/view/823>

Theoretical foundation of the regulations for investing zakat funds

Dr. Samir Ghouini

Ph.D, Faculty of Economic Sciences and Commercial Sciences and Management Sciences, University Ziane Achour Djelfa, Algeria.

Email: s.ghouini@univ-djelfa.dz

Dr. Ahmed Zitout

Ph.D, Faculty of Economic Sciences and Commercial Sciences and Management Sciences, University Ziane Achour Djelfa, Algeria.

Email: a.zitout@univ-djelfa.dz

Dr. Bouaita Abderrazzak

Ph.D, Faculty of Economic Sciences and Commercial Sciences and Management Sciences, University Al-Bashir Al-Ibrahimi, Burj Bou Arreridj, Algeria.

Email: abderrezzak.bouaita@univ-bba.dz

Abstract--Zakat funds are an important financial resource for individuals, institutions, and countries. To maximize the benefits from this resource, many countries, such as Algeria, Jordan, Malaysia, and Sudan, have invested these funds in various ways and methods. This study outlines how these funds are invested and presents some practical experiences from a group of countries. It also examines the legal rulings regarding the investment of these funds by presenting the opinions of those who permit and those who prohibit it, as well as highlighting the prevailing view based on legal evidence. Additionally, it specifies the legal controls that govern the investment of zakat funds.

Keywords--Zakat, investment, invest zakat funds.

Introduction

Zakat is the third pillar of Islam, an obligation imposed by Allah on His servants. It is taken from the wealthy and given to the poor, providing benefits such as redistributing wealth within society and fostering a spirit of solidarity among individuals. It is also a means of growing wealth and purifying the heart. As Allah says: "Take from their wealth a charity by which you purify them and cause them

to grow, and invoke Allah for them. Indeed, your supplication is reassurance for them."

In past centuries, zakat was collected by collectors appointed by the ruler. However, in our current era, institutions, associations, offices, and funds have been established to collect zakat and distribute it to its rightful recipients. A new development has emerged that did not exist in the past—namely, the investment of zakat funds for the benefit of those entitled to them. Scholars have differed on this matter, with some permitting it and others prohibiting it, each with their own arguments. Those who prohibit it argue that zakat must be distributed immediately and owned by its recipients, rather than being delayed or put at risk. In contrast, those who permit it argue that Allah has established the categories for zakat but has left the methods of its distribution open. Investing these funds does not replace these categories; rather, it complements and enhances them, providing additional benefits for the rightful recipients. Thus, it is essential to balance literal adherence to evidence with achieving greater benefits that do not contradict the original purpose.

Based on this introduction, we formulate the issue of this research paper as follows:

****Can zakat funds be invested without violating the legal frameworks that govern this act of worship?***

To address this issue, we have divided this paper into the following sections:

1. First Section: Fundamentals of the concept of zakat.
2. Second Section: Methods and ways to invest zakat funds.
3. Third Section: Legal controls on investing zakat funds.

1. Basics About the Concept of Zakat

We will attempt to explain some concepts related to zakat as a prelude to the points that require this clarification.

1-1. What Do We Mean by Zakat?

Zakat is the third pillar of Islam and is associated with prayer in the Quran. Its obligation is supported by the Quran, Sunnah, and consensus. Linguistically, zakat is derived from the root "zaka," which means to grow, increase, or purify. Zakat refers to blessings, growth, purity, and righteousness. In a legal context, zakat is a specified portion of wealth that is allocated to a specific group. (Al-Uthaymeen, 2008, p. 09)

1-2. Zakat as Charity:

Legal zakat may also be referred to as charity in the language of the Quran and Sunnah. (Al-Qardawi, 1973, p. 40) Allah says: "Take from their wealth a charity by which you purify them and cause them to increase." (Quran 9:103). Other verses refer to zakat as a form of charity, emphasizing its role in supporting the needy.

1-3. Types of Zakat: (Mohamed & Malek, no date)

Zakat is divided into two types:

1-3-1. Zakat of Persons (Fitr)

Zakat al-Fitr, also known as the charity of breaking the fast, purifies the soul and is obligatory for every able Muslim, male or female. It does not require ownership of a minimum amount and is to be paid during Ramadan until just before the Eid prayer.

1-3-2. Zakat of Wealth

Zakat on wealth is mandated based on conditions related to the owner, including being Muslim, free, and owning a minimum amount. Conditions also pertain to the wealth itself: it must grow, reach the minimum threshold, be owned for a lunar year, and be beyond basic needs.

1-4. Recipients of Zakat:

There are eight categories of zakat recipients mentioned by Allah: "Charities are for the poor, the needy, those who collect them, those whose hearts are to be reconciled, for freeing captives, for those in debt, for the cause of Allah, and for the traveler in need." (Quran 9:60). Zakat should not be spent on anything else, as it is specifically designated for these groups.

Here are the eight categories detailed: (Al-Uthaymeen, 2008, pp. 325-330)

1-4-1. The Poor: Those who have less than half of what they need or nothing at all.

1-4-2. The Needy: Those who are humbled by poverty and often cannot express their needs. They have more than the poor but less than the self-sufficient.

1-4-3. Those Who Collect Zakat: Appointed by the authority, these individuals can be paid even if they are not poor, as they serve the community's interest.

1-4-4. Those Whose Hearts are to be Reconciled: Influential individuals in their tribes whose support is sought to strengthen their faith or reduce harm.

1-4-5. For Freeing Captives: This includes:

1-4-5-1. A Muktab (a slave who has contracted to buy his freedom).

1-4-5-2. A slave purchased with zakat to be freed.

1-4-5-3. A Muslim prisoner held by non-Muslims.

1-4-6. Those in Debt: This applies to those who owe money, which can be of two types:

1-4-6-1. To reconcile disputes between groups.

1-4-6-2. Personal debts of the poor.

1-4-7. In the Cause of Allah: This refers to jihad and includes support for those fighting in Allah's way.

1-4-8. The Traveler in Need: A traveler whose funds have run out and cannot return home.

2: The Reality of Investing Zakat Funds

The topic of investing zakat funds remains a contentious issue among scholars, leading to a diversity of opinions that have obscured the vision for Muslims. We will try to clarify this through the following points:

2-1. Concept of Investing Zakat Funds:

Before discussing the concept of investing zakat funds, it is essential to explain the concept of investment to understand this matter.

2-1-1. Concept of Investment:

Investment in language refers to "fruits" and types of wealth. (Ibnelmunzur, p. 1/504) "Fruits" are things generated from a gathering. (Ibnfares, p. 1/388) It is said that to invest money means to grow it. Investment involves using money for production, either directly by purchasing machinery and raw materials or indirectly by buying stocks and bonds. The "fruits" of money are what it produces at periodic intervals. (Academy, 1994, p. 87)

In a technical sense, it involves exchanging a certain and available financial value for future financial returns. Economically (Norbert, 1997, p. 273), it is defined as "expenditures that stimulate purchases, which in turn create investments." (Couriaux, 1988, p. 1988)

Based on this, investing zakat funds can be defined as: "the act of growing zakat funds for any purpose and by any legitimate means to achieve benefits for the beneficiaries." (Shubair, p. 03) It is also defined as: "employing zakat funds individually or alongside other funds, and utilizing them for the benefit of zakat recipients, considering both immediate and future returns in accordance with the governing regulations." (Mohamed & Malek, no date, p. 151) The term "other funds" refers to non-zakat funds that may participate in zakat investment to achieve profit or support zakat.

2-2. Types of Investment Projects for Zakat Funds:

If zakat funds are to be invested, this investment can take various forms. This includes establishing revenue-generating projects, whether large or small, and distributing the profits from the projects (such as factories and commercial shops) to the beneficiaries. Additionally, service projects can be created, such as hospitals and schools, which are owned by zakat institutions, allowing beneficiaries to access health and educational services either for free or at a subsidized cost, while non-beneficiaries pay a fee.

Another form of investment in practice is temporary investment, which involves placing some zakat funds in Islamic banks for a year or two to benefit from their profits. The advantage of this approach is the ease of retrieving zakat funds whenever needed.

Zakat funds can also be invested through trade using known financing methods: profit-sharing, partnerships ending in ownership, and leasing. Another way to invest zakat funds is to provide certain individuals and families with amounts to establish small projects.

2-3. Examples from Various Countries:

2-3-1. The Jordanian Experience:

The Ministry of Awqaf and Islamic Sacred Endowments in the Hashemite Kingdom of Jordan has established a zakat fund under Article 3 of Zakat Law No. 8 of 1988. The fund's vision is to revive the obligation of zakat by providing

optimal services to donors and fair distribution of zakat funds through activities such as: (Rebabah, 2009)

- Training Courses: For example, the fund organized courses in ceramics, weaving, sewing, knitting, printing, and embroidery at a cost of 5,300 dinars.
- In Service Programs: By training the poor and those able to work in service and industrial fields, examples include training in electricity and power, decoration programs, chemical industry training, and electronic device maintenance programs. The number of beneficiaries from this program reached 180 people at a cost of 45,600 dinars.
- In Humanitarian Charity Programs: This area includes educational programs for poor students and medical treatment for the ill. Some zakat committees have established medical clinics funded by zakat revenues to treat the poor for free, along with programs for the rehabilitation of Muslim girls. The five-year plan included a set of programs, estimating the number of beneficiaries at 16,515 with a total cost of 3,760,000 dinars.

2-3-2. The Palestinian Experience:

Zakat is collected and distributed in Palestine through zakat committees and charitable associations. Among these committees are: (Ammawi, 2010, p. 144)

- Nablus Zakat Committee: Established in 1977, among the projects it has created are:
 - Al-Safa Dairy Products Factory.
 - Al-Tadamun Health Clinic.
 - Al-Quran Academy School.
 - Al-Noor and Al-Zahra Al-Madain Buildings.
 - A sewing workshop.
 - Several Quran memorization centers for boys and girls.
 - Individual rehabilitation projects for families such as beekeeping and sheep farming, sewing machines, and blacksmithing and carpentry shops.
 - The committee also supports orphans, numbering over 3,000, as well as families exceeding 3,000. A fund for poor students has also been established, spending 72,000 dinars annually on school students.
- Jenin Zakat Committee: Founded in 1985, among the projects it has undertaken are:
 - Purchasing an excavator to utilize its revenue for the poor.
 - Establishing Al-Razi Hospital in 1997 at a cost of 5 million dollars, employing over 120 staff, providing free treatment to the poor.
 - Establishing Al-Iman School, which teaches orphaned children for free, employing 68 staff members.
 - Other associations like Tulkarm Zakat Committee and the Solidarity Association in Nablus have also undertaken numerous investment projects.

2-3-3. The Algerian Experience:

Based on the slogan raised by the Algerian Zakat Fund, "We do not give to keep one poor, but to make him zakat-giving," the Ministry of Religious Affairs and Endowments in Algeria allocated a portion of zakat funds for investment, estimated at 37.5% of the total revenue. In agreement with Al-Baraka Bank, as a

technical agent for the investment process, the following projects were identified for financing from the zakat fund: (Masdour, 2004, p. 16)

- Financing projects to support and employ youth.
- Financing projects of the National Unemployment Insurance Fund.
- Financing small projects.
- Financing projects guaranteed by the Loan Guarantee Fund under the Ministry of Small and Medium Enterprises.
- Assisting indebted institutions capable of recovery.
- Establishing companies between the fund and the bank.

The investment in the Algerian Zakat Fund has been growing.

3: Regulations for Investing Zakat Funds

Investing zakat funds may occur either by the recipients of zakat after receiving it, or by the owner who is obligated to pay zakat, or by the imam or his deputy who oversees the collection process. Below is an explanation of each case and its ruling. (Shubair, p. 03)

A. Ruling on Investing Zakat Funds by Recipients:

The jurists have stated that it is permissible for zakat recipients to invest zakat funds after receiving them, as once the zakat reaches them, it becomes their complete property. Therefore, they are allowed to manage it as owners do with their assets, including establishing investment projects and purchasing tools for their trades.

B. Ruling on Investing Zakat Funds by the Owner:

Before addressing the ruling on the investment of zakat funds by the owner, there is an important issue to clarify: Is zakat obligatory immediately or can it be delayed?

The scholars have differed on the immediacy of paying zakat after it becomes obligatory. The majority hold that zakat is obligatory immediately, supported by several evidences, including:

- Allah's saying: "And give its due on the day of its harvest." (Quran 6:141), which refers to zakat and implies immediacy.
- It was narrated from Uqbah ibn Al-Harith that the Prophet Muhammad (peace be upon him) hurriedly prayed and then entered his house. He soon came out and said: "I had left some dates of charity in the house, and I disliked to leave it overnight, so I distributed it." (EL-Bukhari, p. 2/118)

The implication is that the Prophet (peace be upon him) was quick to distribute the charity and showed dislike for delaying it.

Based on this, it is not permissible for the owner to delay paying zakat without a valid excuse, such as giving it to someone more deserving, like a relative or someone in need. However, investing it does not count as a valid excuse for delay. Therefore, it is not permissible to delay it for the purpose of investment, as that would prevent the immediate payment required. Additional support for this view includes: (Ghaffili, 2008, pp. 469-474)

- Investment may result in losses, which the owner would bear, thus depriving the poor of their rights.
- The invested zakat funds may yield significant profits, leading the payer to become greedy and refrain from paying zakat. Immediate payment is a way to cut off greed and avoid avarice.

C. Investment of Zakat Funds by the Imam and His Deputy:

The scholars agree on the permissibility of the imam or his representative collecting zakat funds, as this absolves the payer of their obligation by giving zakat to the imam (Ghaffili, 2008, p. 475), who is responsible for collecting and distributing it according to its legal purposes. However, contemporary scholars have disagreed on the ruling regarding the investment of these zakat funds by the imam or his deputy after collecting them from their owners, leading to two main opinions. (Elkasani, p. 2/36)

First Opinion: Permissibility of Investing Zakat Funds

This opinion was adopted by the Islamic Fiqh Academy affiliated with the Organization of Islamic Cooperation during its third session (Ghaffili, 2008, p. 478), as well as the third seminar on contemporary zakat issues organized by the Zakat House in Kuwait and the Kuwait Finance House. (AL-Salous, 2010) It is also supported by the Sharia Board of the Zakat House in Kuwait and the Fatwa Committee of the Ministry of Awqaf in Kuwait. Many contemporary scholars, such as Sheikh Mustafa Al-Zarqa, Dr. Wahbah Al-Zuhayli, Sheikh Abdul Fattah Abu Ghuddah, and Dr. Yusuf Al-Qaradawi, also endorse the permissibility of investing zakat funds.

Second Opinion: Impermissibility of Investing Zakat Funds

This view was adopted by the Islamic Fiqh Academy affiliated with the Muslim World League during its fifteenth session, as well as the Islamic Fiqh Academy in Lucknow, India, during its thirteenth seminar. (AL-Jizali, 2006, p. 233) It is also supported by the Permanent Committee for Scholarly Research and Ifta in the Kingdom of Saudi Arabia. (Ifta) Some contemporary scholars, such as Sheikh Muhammad bin Saleh Al-Uthaymeen and Sheikh Bakr Abu Zaid (may Allah have mercy on them), also adhere to this opinion.

Evidence:

Below is a presentation of the evidence from both sides: (Shubair, pp. 08-09)

Evidence of the First Team:

1. Historical Precedent: The Prophet Muhammad (peace be upon him) and the Rightly Guided Caliphs used to invest the funds of charity, such as camels, cows, and sheep. These animals had specific places for preservation, grazing, milking, and breeding, and they had shepherds to oversee them.
2. Broad Interpretation of "In the Way of Allah": The phrase "in the way of Allah" has been interpreted to include all forms of good, such as building fortifications, constructing mosques, establishing factories, and other beneficial projects for Muslims. If zakat can be spent on all forms of good, it is permissible to invest it in establishing factories and projects that benefit the entitled recipients.

3. Necessity for Military Factories: Scholars have permitted the imam to establish military factories from the "in the way of Allah" share when necessary, treating these factories as public endowments serving the interests of Muslims.
4. Encouragement of Work and Production: There are numerous hadiths that encourage work, productivity, and the investment of one's wealth and effort.
5. Analogy to Recipients Investing Zakat: If it is permissible for recipients to invest zakat after receiving it to secure their livelihoods, it follows that investing in industrial or agricultural projects that generate continuous income for them is also permissible.
6. Analogy to Orphan Funds: If guardians are allowed to invest the funds of orphans, which are rightfully theirs, then zakat funds can also be invested before being distributed to beneficiaries for their benefit, as they are not more sacred than orphan funds.
7. Preference for Practicality: Although the original ruling may be one of impermissibility, the current necessity due to the diverse conditions of countries, people, and lifestyles requires a reevaluation. Investing zakat funds can provide stable financial resources to meet the increasing needs of beneficiaries.

Evidence of the Second Team:

Those who argue against the permissibility of investing zakat funds cite the following:

1. Delay in Distribution: Investing zakat funds in industrial, agricultural, or commercial projects delays the distribution of zakat to the entitled recipients. Spending zakat on such projects necessitates waiting for the profits, which contradicts the majority opinion that zakat is obligatory immediately.
2. Risk of Loss: Investing zakat funds exposes them to potential loss and waste, as trade can result in either profit or loss.
3. Administrative Costs: Investing zakat funds may lead to a significant portion being spent on administrative expenses.
4. Lack of Individual Ownership^{**}: Investing zakat funds prevents individuals from owning them outright, which contradicts the majority view that individual ownership is a condition for fulfilling zakat obligations. Allah has associated charity with the recipients in the Quran using the term of ownership.

Preference:

After presenting and discussing the evidence from both teams, (Ghaffili, 2008, pp. 479-493)(Shubair, pp. 10-14)the following points emerge:

1. The principle regarding zakat funds in the hands of the imam or his representatives is to distribute them promptly among the entitled recipients; delaying this is not permissible.
2. However, if necessity or need arises to delay distribution, it is acceptable. In such cases, the funds should be preserved in a manner deemed appropriate by the imam or his representative, ensuring that they do not go to waste and achieve benefits for the recipients. This could involve keeping them in Islamic financial institutions as investment deposits until needed.

3. The previous principle also allows for delaying distribution for investment purposes if necessity or need arises, such as securing stable financial resources for the recipients and providing job opportunities for jobless recipients, thus permitting investment in productive projects.

Conclusion

In this paper, we addressed a range of concepts related to zakat, including the definition of investing zakat funds, also known as zakat investment. We presented the experiences of some countries in this field. At the end of the paper, we discussed the ruling on investing zakat funds by presenting the evidence from both supporters and opponents, ultimately determining that, in Allah's knowledge, it is permissible for the imam or his representative to invest zakat funds without violating necessary conditions and regulations, which are as follows:

- Consideration of Recipients' Needs: There should be no urgent spending needs that require immediate distribution, such as for food and clothing. Essential needs of the recipients must be met before investing zakat funds.
- Real Benefit for Recipients: The investment must yield a significant benefit for the recipients.
- Safeguarding Investments: Measures and precautions should be taken to ensure that the invested funds and their profits remain for the benefit of the recipients. When the invested assets are sold, the proceeds must be distributed to the recipients.
- Prompt Liquidation of Investments: If the needs of the recipients arise, the invested funds should be promptly liquidated and distributed to them.
- Investment Decisions by Authorized Individuals: Investment decisions should be made by those with public authority, such as the ruler or their representatives, who have the necessary expertise.
- Supervision by Qualified Individuals: The management and oversight of the investment should be entrusted to individuals with experience, integrity, and uprightness.
- Compliance with Zakat Regulations: Investing zakat funds should not lead to violations of the specific rulings pertaining to this act of worship.
- Legitimate Investment Areas: Investments should be made in lawful fields such as agriculture, industry, and commerce, and it is not permissible to invest in prohibited areas.

Bibliography

- Academy, A. L. (1994). *AL-Mu'jam AL-Wjiz*. Cairo: Ministry of Education.
- AL-Jizali, M. B. (2006). *Fiqh Al-Nawazil: An Applied Foundational Study*. Saudi Arabia: Dar Ibn EL-Jawzi.
- Al-Qardawi, Y. (1973). *Fiqh Al-Zakat (A Comparative Study of Its Rules and Philosophy in Light of the Quran and Sunnah)*. Beirut: Dar Al-Resalah.
- AL-Salous, A. A. (2010). *Contemporary Jurisprudential Issues and Islamic Economics*. Egypt: Dar Ibn Kathir.
- Al-Uthaymeen, M. b. (2008). *Fiqh Al-Zakat*. Cairo: Dar Al-Ghad Al-Jadieed.

- Ammawi, K. A. (2010). *The Role of Zakat in Economic Development*, Thesis submitted for a Master's degree in Jurisprudence and Legislation. Graduate Studies College, Nablus, palestine: An-ndjah Ntional University.
- Couriaux, J. P. (1988). *Macroeconomcs*. Paris: Economica.
- EL-Bukhari, M. I. *Sahih AL-Bukhari*.
- Elkasani, A. E. *Bada'i Al-Sana'i*.
- Ghaffili, A. B. (2008). *Nawazil Al-Zakat: A Jurisprudential Study of Zakat Developments*. Bank Al-Bilad and DarAL-Maiman.
- Ibnelmunzur. *Lisan AL-Arab*.
- Ibnfares. *Mu'jam Maqayis AL-Lughah*.
- Ifta, P. C. (s.d.). Récupéré sur <http://www.alifta.net/Fatawa/FatawaChapters.aspx?View=Page&BookID=3&PageID=3400&back=true>(<http://www.alifta.net/Fatawa/FatawaChapters.aspx?View=Page&BookID=3&PageID=3400&back=true>)
- Masdour, F. (2004). *The Experience of the Algerian Zakat Fund. Course on Financial ;Administrative.and Marketing Aspects of Zakat Institutions*.
- Mohamed, E. M., & Malek, M. (no date). *Economics of Zakat and Its Contemporary Applications*. Sudan: Higher Instute of Zakat Sciences.
- Norbert, G. (1997). *Corporate Finance, the Rules of the Game*.France: Editions d'organisation.
- Rebahah, M. A. (2009). Utilizing Zakat in Human Resource Development: The Experience of the Jordanian Zakat Fund as a Model. *Journal of King Abdulaziz University* .
- Shubair, M. O. (s.d.). *Investment of zakat Funds*. Consulté le 09 10, 2024, sur Encyclopedia of Islamic Finance and Economics: <http://iefpedia.com/arab/?p=4148>(<http://iefpedia.com/arab/?p=4148>)